

Sullivan, Harry Leo

March 12, 2008

Nashville, TN

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UNITED STATES DISTRICT  
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL ) MDL NO. 1456  
INDUSTRY AVERAGE WHOLESALE ) CIVIL ACTION  
PRICE LITIGATION ) 01-CV-12257-PBS  
THIS DOCUMENT RELATES TO )  
U.S. ex rel. Ven-a-Care of )  
of the Florida Keys, Inc. )  
v. ) No.06-CV-11337-PBS  
ABBOTT LABORATORIES, INC., )

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(cross captions appear on following pages)

Deposition of HARRY LEO SULLIVAN

Volume I

Nashville, Tennessee

Tuesday, March 12, 2008

9:05 a.m.

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|--|---|
| 1 left in January 2004?<br>2 A. Yes. And should be still maintained by<br>3 the State of Tennessee.<br>4 Q. But when you worked for the State of<br>5 Tennessee, you did have some documents that would<br>6 have been responsive.<br>7 A. Sure.<br>8 Q. Is that fair to say?<br>9 A. Sure. Absolutely.<br>10 Q. Tell me again what, what position you<br>11 had when you left.<br>12 A. I was the director of the pharmacy --<br>13 some pharmacy services for TennCare.<br>14 Q. Director of pharmacy services would be<br>15 your title?<br>16 A. Yes.<br>17 Q. How long did you have that job?<br>18 A. I began in 19 -- in the fall of 1989<br>19 and left in January of 2004.<br>20 Q. You had that job the, the same title,<br>21 the entire time?<br>22 A. No. For about a six-month period of   | 1 documents that might relate to drug pricing or<br>2 average wholesale price?<br>3 A. Can you restate that?<br>4 Q. Sure. While you were the director of<br>5 pharmacy services at TennCare --<br>6 A. Um-hum.<br>7 Q. -- from 1989 through 2004, with the<br>8 exception of the nine-month window, did you ever<br>9 receive a written or oral direction to retain<br>10 documents that might relate to drug pricing or<br>11 average wholesale price?<br>12 A. Direction from whom? I'm unclear.<br>13 Q. Anybody.<br>14 A. Anybody?<br>15 Q. Anybody.<br>16 A. I can't say that anybody specifically<br>17 told me to retain those documents, no.<br>18 Q. Do you recall anyone generally telling<br>19 you there may be litigation relating to issues of<br>20 pharmacy payment?<br>21 A. Well, --<br>22 Q. We need to retain documents.   |
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| 1 time I left that department and went to another<br>2 department in state government, and then shortly<br>3 left to the private sector and then was -- and<br>4 then returned to the job. So for about a, oh,<br>5 nine-month window around, in '96 period of time,<br>6 I was not in that position. Then I was back into<br>7 that position, until January of 2004.<br>8 Q. So help me trace that. I want to trace<br>9 through that specifically. In 1989 you started<br>10 as the director of pharmacy services. And then<br>11 you had that job until what time?<br>12 A. Some -- I couldn't -- I'd have to get<br>13 you exact dates. In '96.<br>14 Q. Okay.<br>15 A. I left for about a nine-month period of<br>16 time.<br>17 Q. Then came back and held the same<br>18 position?<br>19 A. Yes.<br>20 Q. Okay. During your time as the director<br>21 of pharmacy services of TennCare, did you receive<br>22 any direction, either oral or written, to retain | 1 A. No. But I would go on to say, if I<br>2 can, just generally speaking, when you work for<br>3 state government you're very mindful that nothing<br>4 you do from a policy standpoint or a programmatic<br>5 standpoint should be done because of, of all the<br>6 people you answer, answer to, from the<br>7 legislature, to the executive branch to the<br>8 taxpayers, to your own bosses. You need<br>9 documentation on whatever you do. So it would be<br>10 prudent to retain those kinds of records, and I<br>11 certainly did. But I, I don't remember anybody<br>12 specifically saying if you receive any pricing<br>13 information, be sure to retain that, that<br>14 information.<br>15 We also, and speaking on pricing in<br>16 general, our computer claims processing system<br>17 maintained historical data on everything from MAC<br>18 prices to, to updates from Blue Book.<br>19 Q. So if somebody wanted to determine<br>20 which drug products TennCare had a maximal<br>21 allowable cost on, say, in 1994, you believe the<br>22 state would have records that would show that. |